

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[GA-035-9807a; FRL-6004-9]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions for Transportation Control Measures**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Georgia State Implementation Plan (SIP) submitted by the Department of Natural Resources on August 29, 1997, requesting the incorporating several transportation control measures (TCMs).

In the final rules section of this **Federal Register**, the EPA is approving the State's State Implementation Plan (SIP) revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comment, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based upon this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by May 29, 1998.

ADDRESSES: Written comments on this action should be addressed to Kelly Sheckler at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file GA35-9807. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Attn: Kelly Sheckler, 404/562-9042.

Georgia Department of Natural Resources, Environmental Protection Division, Air Protection Division, 4244 International Parkway, suite 136, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler at 404/562-9042.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 6, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**48 CFR Parts 1836 and 1852****Partnering for Construction Contracts**

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a proposed rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to set forth a clause to be used to promote partnering under construction contracts when it has been determined that the benefits to be derived exceed the costs.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Submit comments to Mr. Joseph Le Cren, NASA Headquarters, Code HK, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Telephone: (202) 358-0444.

SUPPLEMENTARY INFORMATION:**Background**

Several NASA field installations have used clauses promoting the use of partnering for construction contracts. Although those clauses have been similar, it was considered to be beneficial to have a standard Agency-wide clause. The proposed rule would provide a standard clause which would establish an Agency policy to endorse the use of partnering where it is determined to be cost effective. The use

of partnering only would be used if voluntarily agreed to by the parties.

The use of partnering clauses in construction contracts by NASA and other agencies has been demonstrated to reduce the average contract cost and schedule growth, as well as reduce the amount of contract claims and litigation. These results have been achieved because the use of partnering has promoted a relationship of open communication and close cooperation between the contractor and the Government, creating a mutually beneficial environment within which to achieve contract objectives and resolve issues.

Impact

NASA certifies that this proposed regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1836 and 1852

Government procurement.

Deidre Lee,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1836 and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1836 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2743(c)(1).

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**1836.70 [Added]**

2. Subpart 1836.70 is added to read as follows:

Subpart 1836.70—Partnering**1836.7001 Definition.**

Partnering means a relationship of open communication and close cooperation that involves both Government and Contractor personnel working together for the purpose of establishing a mutually beneficial, proactive, cooperative environment within which to achieve contract objectives and resolve issues and implementing actions as required.

1836.7002 General.

(a) The establishment of a partnering environment usually leads to higher quality products completed more quickly at lower overall costs and with fewer accidents and litigation.

(b) The use of partnering is encouraged as it has been shown to reduce the average contract cost and schedule growth and to reduce contract claims and litigation.

(c) Partnering is a voluntary contract relationship within the management process that is not to be used to unofficially alter terms of the contract.

1836.7003 Policy.

(a) Partnering should be used on a contract when the contracting officer, in coordination with the project manager, determines that the benefits to be achieved from its use are expected to be greater than the costs.

(b) In determining whether the benefits of partnering are greater than the costs, the following factors should be considered:

(1) The estimated dollar value of the contract;

(2) The complexity of the work to be performed;

(3) The contemplated length of the contract; and

(4) The estimated costs to be incurred in conducting the partnership development and team building initial and follow-up workshops

1836.7004 NASA solicitation provision and contract clause.

The contracting officer may insert a clause substantially the same as stated

at 1852.236-75, Partnering for Construction Contracts, in solicitations and contracts for construction, when it has been determined in accordance with 1836.7003 that the benefits to be derived from partnering exceed the costs.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.236-75 [Added]

3. Section 1852.236-75 is added to read as follows:

1852.236-75 Partnering for Construction Contracts.

As prescribed in 1836.7004, insert the following clause:

Partnering for Construction Contracts April 1998

(a) The terms "partnering" and "partnership" used herein shall mean a relationship of open communication and close cooperation that involves both Government and Contractor personnel working together for the purpose of establishing a mutually beneficial, proactive, cooperative environment within which to achieve contract objectives and resolve issues and implementing actions as required.

(b) Partnering will be a voluntary commitment mutually agreed upon by at least NASA and the prime contractor, and preferably the subcontractors and the A&E design contractor, if applicable. Sustained

commitment to the process is essential to assure success of the relationship.

(c) NASA intends to facilitate contract management by encouraging the foundation of a cohesive partnership with the Contractor, its subcontractors, the A&E design contractor, and NASA's contract management staff. This partnership will be structured to draw on the strengths of each organization to identify and achieve mutual objectives. The objectives are intended to complete the contract requirements within budget, on schedule, and in accordance with the plans and specifications.

(d) To implement the partnership, it is anticipated that within 30 days of the Notice to Proceed the prime Contractor's key personnel, its subcontractors, the A&E design contractor, and NASA personnel will attend a partnership development and team building workshop. Follow-up team building workshops will be held periodically throughout the duration of the contract as agreed to by the Government and the Contractor.

(e) Any cost with effectuating the partnership will be agreed to in advance by both parties and will be shared with no change in the contract price. The contractor's share of the costs are not recoverable under any other Government award.

(End of clause)

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